

922 KAR 1:390. Standards for residential child-caring facilities.

RELATES TO: KRS 2.015, 199.011, 199.640, 199.645-199.670, 202B.010(12), 214.034(4), Chapter 424, 600.020, 610.110(6), Chapter 615, 620.140(1)(d), 42 U.S.C. 670-679b

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5), 199.645

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 199.640(5) and 199.645 require the cabinet to promulgate administrative regulations relating to standards of care and service for child-caring facilities. This administrative regulation establishes standards of care and service for residential child-caring facilities.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 199.011(2).

(2) "Child" is defined by KRS 199.011(4) 600.020(8), and may include:

(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or.

(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015.

(3) "Child-caring facility" is defined by KRS 199.011(6).

(4) "Child-caring program" means the method of delivering a child-caring service.

(5) "Community resources" means a service or activity available in the community that supplements those provided by the child-caring facility in the care and treatment of a child.

(6) "Crisis intervention unit" means a unit operated to serve a child in need of short term intensive treatment and to avoid risk of placement to a higher level of care.

(7) "De-escalation plan" means a treatment method used to decrease the intensity of emotional conflict or aggressive behavior.

(8) "Executive director" means the person employed by the board of directors to be responsible for the administration and management of a child-caring facility.

(9) "Group home" is defined by KRS 199.011(10).

(10) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

(11) "Latching device" means an instrument used to secure a seclusion room door that does not require the use of a key or combination.

(12) "Living unit" means a building or part of a building in which a child resides, containing sixteen (16) or fewer beds.

(13) "Physical management" means a technique used by a specially-trained staff member for the purpose of restricting a child's freedom of movement in order to maintain a safe environment for the child and others.

(14) "Qualified mental health professional" is defined by KRS 600.020(47).

(15) "Qualified mental retardation professional" is defined by KRS 202B.010(12).

(16) "Residential child-caring facility" means an institution or group home providing twenty-four (24) hour care.

(17) "Residential treatment program" means an intensive professional treatment-oriented service provided by a residential facility.

(18) "Seclusion" means the temporary placement of a child in a room in a residential treatment facility to prevent harm to the child or others.

(19) "Treatment" means individualized management and care of a child, utilizing professionally credentialed and certified staff and a component of the treatment environment to assist the child in resolving emotional conflict or a behavioral disorder.

(20) "Treatment director" means an individual who oversees the day-to-day operation of the

treatment program.

(21) "Treatment team" means a representative group of people who provide services to the child and the child's family.

Section 2. Administration and Operation. (1) Licensing procedures. Licensing procedures for a residential child-caring facility shall be in compliance with 922 KAR 1:305 for a child-caring facility.

(2) A residential child-caring facility shall meet the requirements of 922 KAR 1:300, Sections 3 through 8.

Section 3. Residential Child-caring Facility Services. (1) The child-caring program services for a residential child-caring facility shall be in compliance with 922 KAR 1:300, Section 7.

(2) Unless a child is a member of a family group placed in a facility, a child under six (6) shall not be placed in the residential child-caring facility unless that facility is also licensed to provide emergency shelter service as established in 922 KAR 1:380.

(3) An exception to subsection (2) of this section may be made for a child age three (3) to six (6), if:

(a)1. For a child who is in the custody of the cabinet, the commissioner or designee and the residential child-caring facility agree that there is no less restrictive placement available to meet the child's mental health, physical, or behavioral needs; or

2. For a child who is not in the custody of the cabinet, a qualified mental health professional or qualified mental retardation professional and the child's custodian agree that there is no less restrictive placement available to meet the child's mental health, physical, or behavioral needs; and

(b) The residential child-caring facility provides:

1. Adequate space for the child that is protected from children who are age ten (10) and older;

2. Sight and sound segregation of the child from children who are age ten (10) and older while the child engages in:

a. Sleeping;

b. Personal hygiene; and

c. Toiletry; and

3. Staff supervision that supports the child's ITP.

Section 4. Residential Treatment Program. The additional requirements in subsections (1) through (4) of this section shall apply to a residential child-caring facility providing intensive treatment services.

(1) Professional treatment services.

(a) The facility shall secure needed services for a child who has an assessed need for a psychological, psychiatric, or other professional treatment service not provided by the residential child-caring facility.

(b) The admission decision shall be the responsibility of a treatment team comprised of clinical, social service, and other disciplines designated by the residential child-caring facility's treatment director.

(c)1. After assessment and development of the ITP in accordance with 922 KAR 1:300, Section 7, the treatment team shall identify services to meet the needs of the child and his family.

2. The services shall:

a. Be provided by the residential child-caring facility or arranged through contract with another qualified residential child-caring facility or child-placing agency, as established in 922

KAR 1:310, or a treatment professional; and

b. Include, as developmentally appropriate, a minimum of weekly:

(i) Individual counseling from a social worker or other treatment professional; and

(ii) Group counseling conducted by a trained social worker or other treatment professional as determined appropriate by the treatment team and under the supervision of the treatment director.

(d) Other services identified after the assessment and development of the ITP by the treatment team may include:

1. Psychiatric counseling;

2. Specialized therapy recognized by a mental health credentialing authority; or

3. Family counseling.

(2) Staffing requirement.

(a) Staff-to-child ratios shall be in accordance with 922 KAR 1:300, Section 3(5)(b).

(b) The treatment director shall:

1. Hold at least a master's degree in a human service discipline; and

2. Have at least five (5) years' experience in mental health treatment of children with emotional or behavioral disabilities and their families and be responsible for the:

a. Supervision;

b. Evaluation; and

c. Monitoring of the:

(i) Treatment program;

(ii) Social work; and

(iii) Other treatment staff.

(c) A residential child-caring facility providing a treatment service for more than thirty (30) children shall employ a separate treatment director other than the executive director.

(d)1. A residential child-caring facility providing a treatment service for thirty (30) or fewer children may utilize the executive director in a dual role as treatment director if at least fifty (50) percent of his duties are spent supervising the treatment program.

2. If an employee serves as both executive director and treatment director, the higher staff qualification requirements shall apply.

(3) Seclusion.

(a) When seclusion is used, a residential child-caring facility shall:

1. Before a child is placed in seclusion, develop and maintain clearly-written policy and procedures governing the placement of a child in seclusion, including a requirement for a de-escalation plan in the child's ITP that is consistent with accreditation standards;

2. Provide a copy of the policy and procedures to staff members responsible for placement of a child into seclusion;

3. Require a staff member who uses seclusion to complete at least sixteen (16) hours of training in approved methods of de-escalation, physical management, and the use of seclusion from a nationally-recognized organization approved by the cabinet. This training shall count toward the forty (40) hours of annual training required by 922 KAR 1:300 and shall include the following topics:

a. Assessing physical and mental status, including signs of physical distress;

b. Assessing nutritional and hydration needs;

c. Assessing readiness to discontinue use of the intervention; and

d. Recognizing when medical or other emergency personnel are needed.

4. Use seclusion only in an emergency or crisis situation when:

a. A child is in danger of harming himself or another; and

b. The effort made to de-escalate the child's behavior prior to placement was ineffective;

5. Prohibit the use of seclusion for:
 - a. Punishment;
 - b. Discipline; or
 - c. Convenience of staff;
 6. Provide that Approval from the treatment director or treatment staff designee is obtained prior to or within fifteen (15) minutes of the placement of a child in seclusion.
 7. Place no more than one (1) child into the same seclusion room at a time;
 8. Remove an object that may be used for self harm from a child before the child is placed in seclusion;
 9. Not remove a child's clothing, except for belt and shoes, while the child is placed in seclusion;
 10. Within a twenty-four (24) hour period of time, not to allow a child to remain in latched seclusion for more than:
 - a. Fifteen (15) minutes if the child is age nine (9) and younger; and
 - b. One (1) hour, if the child is age (10) and older;
 11. If a child's behavior is stabilized, release the child from seclusion prior to the time period specified in this section;
 12. Discontinue seclusion if a child displays adverse side effects including:
 - a. Illness;
 - b. Severe emotional or physical stress; or
 - c. Physical damage to self or items in seclusion;
 13. Provide a child in seclusion with food, water, and access to a lavatory; and
 14. Use a room for seclusion that is:
 - a. Lighted, ventilated, and maintained at a temperature consistent with the rest of the child-care facility;
 - b. Internally observable if the door is closed;
 - c. At least fifty-six (56) square feet in size; and
 - d. Free from an object that allows the child to do self-harm.
- (b) If a child requires repeated placement in seclusion, the treatment director shall conduct a treatment team meeting to reassess the child's ITP, including referring the child to a higher level of care.
- (c) A staff member shall observe visually a child who is in seclusion every five (5) minutes.
- (d) Staff shall have visual contact with a child in latched seclusion at all times.
- (e) Staff shall document, in the child's record, the following information regarding seclusion of a child:
1. An intervention to de-escalate the child's behavior prior to placement;
 2. Date and time of placement;
 3. Date and time of removal;
 4. Reason for placement;
 5. Name of each staff member involved;
 6. Treatment director's or designee's approval;
 7. Five (5) minute visual observation by staff of the child's placement; and
 8. Intervention provided by treatment staff when the child leaves seclusion.
- (f) Immediately upon the child's exit from seclusion, treatment staff shall provide therapeutic intervention.
- (4) Incident report.
- (a) Exclusive of weekends and holidays, within twenty-four (24) hours of the physical management of a child, including a child's placement in seclusion, designated treatment staff shall complete an incident report that shall:

1. Undergo an administrative review no later than seventy-two (72) hours after the use of physical management;
 2. Document an assessment by the treatment director or designee that shall include consideration of the:
 - a. Necessity of the physical management or seclusion;
 - b. Congruence of the physical management or seclusion with the residential child-caring facility's policy and procedures; and
 - c. Need for a corrective action;
 3. Contain documentation of written feedback provided by the treatment director or designee to all treatment staff involved in the incident; and
 4. Be signed by the treatment director or designee and the program director or designee.
- (b) The residential child-caring facility shall establish a system to track the frequency, location, and type of critical incidents involving physical management of a child that occurs, including seclusion.

Section 5. Crisis Intervention Unit. (1) An emergency service provided in a crisis intervention unit shall include the following:

- (a) A mental status evaluation and physical health questionnaire of the child upon admission;
 - (b) A treatment planning process;
 - (c) Procedure for crisis intervention; and
 - (d) Discharge and aftercare planning processes.
- (2) A program shall have a written policy concerning the operation of a crisis intervention unit.
- (a) Staffing.
 1. At least one (1) direct-care staff member shall be assigned direct-care responsibility for:
 - a. Four (4) children during normal waking hours; and
 - b. Six (6) children during normal sleeping hours.
 2. Administrative oversight of the program shall be provided by a staff member who shall be
 - a. Treatment director; or
 - b. Person qualified to be executive director.
 - (b) A licensed psychiatrist shall be available to evaluate, provide treatment, and participate in the treatment planning.
 - (c) Intake and service.
 - 1.a. Upon admission, the crisis intervention program shall provide the child and his parent, guardian, or other legal representative with a clearly written and legible statement of rights and responsibilities; or
 - b. If unable to read the statement of rights and responsibilities, the statement shall be read to the child and his parent, guardian, or other legal representative.
 2. Written policy and procedure developed in consultation with professional and direct-care staff shall provide:
 - a. For behavior management of a child, including the use of time-out; and
 - b. An explanation of behavior management techniques to a child and his parent, guardian, or other legal representative.
 - (3) The crisis intervention unit shall prohibit the use of:
 - (a) Seclusion; or
 - (b) Mechanical restraints.

Section 6. Group Home. The following additional requirements shall apply to a group home program:

(1) Documentation of evidence of publication of a "notice of intent" in an area newspaper, in accordance with KRS Chapter 424, advertising that:

(a) A public hearing shall be held if requested by citizens in the community or an appropriate local governmental entity; and

(b) Information obtained at the hearing shall be made available to the public and the cabinet;

(2) A staff-to-child ratio in accordance with 922 KAR 1:300, Section 3(5)(b); and

(3) Documentation of the use of community resources and efforts to encourage a child to participate in community activities. (26 Ky.R. 2184; 27 Ky.R. 582; 1019; eff. 10-16-2000; 28 Ky.R. 1720; 2232; 2612; eff. 6-14-2002; TAm eff. 10-27-2004; TAm eff. 1-27-2006; 34 Ky.R. 668; 1512; 1985; eff. 2-14-2008.)